IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

MFA.No. 959 of 2001(D)

---

OPMV.1696/1990 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM

.....

APPELLANT/3RD RESPONDENT IN M.V.O.P:

---

THE ORIENTAL INSURANCE COMPANYN. LTD., CHANGANACHERRY
REP. BY THE ASSISTANT MANGER, MOTOR THIRD PARTY CLAIMS CELL,
REGIONAL OFFICE, NORTH RAILWAY STATION ROAD,
ERNAKULAM, COCHIN – 682 018

BY ADV. SRI.M.JACOB MURICKAN

RESPONDENTS/ PETITIONER AND RESPONDENTS 1 & 2 IN M.V.O.P.:

---

1. PONAPPAN ACHARI, S/O. KUTTAN ACHARI
   SARAVANABHAVAN, VAZHAPPALLY EAST VILLAGE
   CHANGANACHERRY

2. M.LUCKMON, NO.32, RAMASWARAN STREET
   T.NAGAR, MADRAS

3. JOHN SEBASTIAN, MUKKADAN
   VAZHAPPALLY-P.O., CHANGANACHERRY

BY ADV. SRI.P.K.SIVADASAN NAIR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**K.PADMANABHAN NAIR, J.**

**----------**

**M.F.A. NO. 959 OF 2001**

**----------**

**Dated this the 9th day of October, 2007**

**J U D G M E N T**

This appeal is taken up for admission after condoning the delay. The appeal is filed by the Insurer/3rd respondent in M.V.O.P. challenging the direction issued by the Tribunal to pay compensation to the petitioner and then recover the same from the owner. It is trite law that when the objection raised was in violation of the condition of policy, the insurer has to indemnify the petitioner and then recover that amount from the owner. Even if the appeal is admitted and pending, the appellant will not get any relief. The quantum of the amount awarded is reasonable. The finding of the negligence is also perfectly correct. So, there is no merit in the appeal.

Appeal fails and it is accordingly dismissed.

**K.PADMANABHAN NAIR, JUDGE**

vps

**K.PADMANABHAN NAIR, J.**

**----------**

**M.F.A. NO.959 OF 2001**

**----------**

**JUDGMENT**

**9th day of October, 2007**